

EXHIBIT 8

WORKFORCE INVESTMENT NOTICE: 99-21 (change 1)

SUBJECT: WIA Certification Process for Eligible Training Programs/Providers

DATE: May 6, 2003

PURPOSE: As we enter into the fourth year of this process, a new application has been developed that supercedes the one provided in WIN #99-21. Most of the background information is still relevant in order for eligible training providers to have background on this process.

CHANGES: The local Workforce Investment Boards (WIBs) have requested that the State Workforce Investment Office (SWIO) solicit on its behalf for Program Year 2003. The application process is no longer separated into Category One and Category Two submissions. One application is used whether applying for Initial Eligibility and/or Subsequent Eligibility. Any links referenced in this notice should be disregarded. Necessary links are provided within the application.

The original applications that were part of WIN #99-21 have been omitted along with the detailed instructions for completing these applications.

CERTIFICATION PROCESS FOR

ELIGIBLE TRAINING PROGRAMS/PROVIDER ELIGIBLE TRAINING PROGRAMS/PROVIDERS

I. Introduction [Ref. - Act Sec. 122(a); 134(d)(4); Regs. - Preamble Sec. 663.500 Sec. 663.505]

The Workforce Investment Act of 1998 (WIA) emphasizes informed customer choice, system performance and continuous improvement. WIA mandates local Workforce Investment Boards (WIBs), in partnership with the Department of Labor and Training, to identify training service providers at the local level, whose performance qualifies them to receive WIA funds to train job seekers, based on minimum criteria established by the Governor. This basis builds on the following three guiding principles:

- Empower individuals by allowing them to choose the program of training or education they need and giving them the information to make good choices;
- Increase accountability and quality among providers; and

- Establish strong state and local partnerships to ensure quality training options and accuracy of information for the client.

Consequently, these principles set the framework for a competitive market designed to give customers the best choices for training and receive premium services and information that will lead to a strong provider marketplace.

The intent of the WIA is to allow adult and dislocated job seekers that qualify for training services to have freedom of choice in selecting any qualified training provider from the State's single eligible provider list. This list and the performance and cost information shall be disseminated to the **NetworkRI** Delivery System within the State. The list and the information are the primary components of the **NetworkRI** "Consumer Report" system that provides for informed customer choice. In addition, the list shall also be made available to customers whose training is supported by all **NetworkRI** partners as the directory for their eligible training service providers. Adults and dislocated workers eligible to receive training services under Title I of WIA will have opportunity to select any of the eligible providers/programs, from any of the local areas in the State, that are included on the State's eligible provider list. The WIA intends for job seekers to make decisions based on actual performance criteria.

To be initially eligible to receive funds as an eligible provider of training services, providers may apply for program certification under two categories.

Category One

In order to receive adult and dislocated worker funds under the first category, prospective providers must meet the following criteria:

- A Post-Secondary educational program that is **(a)** eligible to receive funds under Title IV of the Higher Education Act of 1965 and **(b)** provides a program that leads to an Associate Degree, Bachelor's Degree or Certificate; or
- Carries out programs under the National Apprenticeship Act of 1937.

Providers and their programs that are eligible to apply for certification under category one include universities, colleges, community colleges, some vocational-technical schools, some proprietary schools and apprenticeship programs registered with the Bureau of Apprenticeship Training, U. S. Department of Labor.

Category Two

In order to receive adult and dislocated worker funds under the second category, prospective providers must meet eligible provider criteria established by the Governor. The Department of Labor and Training will be responsible for eligibility certification of providers and their programs applying under the second category.

Providers that are eligible to apply for certification under category two are:

- Public and private providers of a program of training services, which includes entities such as vocational-technical schools, community-based organizations (CBOs), private training companies, labor organizations, employer organizations, private individuals and entities that provided training under JTPA;
 - A post-secondary educational institution or training provider, public, private for profit or private not for profit wishing to receive training funds for a program(s) which do not lead to an associate or baccalaureate degree of certificate or are not funded under Title IV of the Higher Education Act of 1965;
 - An apprenticeship program wishing to receive training funds for a program not registered with the Federal Bureau of Apprenticeship Training; and
 - A local WIB that has applied for and been granted a waiver by the Governor as outlined in Section 117(f)(1)(B) of the Act.
- The provider must be offering a course of training in a demand occupation for the local area, or in the State of Rhode Island as appropriate.

A. Application Process [Ref. – Regs. Sec. 663.515(a)(b)(c)]

Each local WIB shall solicit an invitation to all training providers to submit applications to apply for status as approved training providers. This solicitation may be done through a combination of direct mailings, newspaper notices and other appropriate means. At the discretion of the local WIB, it may also solicit training providers from outside of the local area, including other states. The local WIB will be responsible for ensuring that the training providers have access to the forms for making application and to a list of demand occupations for its area. The Rhode Island Department of Labor and Training Occupations Demand List of Top Fifty Occupations Based on Annual Openings can be located from the following web site: www.dlt.state.ri.us/wio

Prospective training providers will be required to submit applications covering each individual program or course of study to be offered. NOTE: **PROGRAMS**, not providers, are certified through this process.

1. Program Services [Ref. - Regs. Sec. 663.508]

Potential training providers must submit an application to the local WIB, for (1) each course of study or program being proposed and (2) inclusive of performance and cost information.

Training should be tailored to those occupations that have been determined to be in demand in each particular local area. A program of training includes:

- a. One or more courses or classes that, upon successful completion, leads to a certificate, diploma, associate degree or bachelor's degree; or
- b. A competency or skill recognized by employers; or
- c. A training regimen that provides individuals with additional skills or competencies generally recognized by employers.

2. Types of Training Requiring Applications [Act – Sec. 134(d)(4)(D); Regs. 663.300]

The following list of training services is not all inclusive and additional training services may be provided. All proposed training services must be certified in order for WIA-eligible clients to enroll:

- a. Occupational skills training, including training for nontraditional employment;
- b. Programs that combine workplace training with related instruction, which may include cooperative education programs;
- c. Training programs operated by the private sector;
- d. Skill upgrading and retraining, except OJT and customized training;
- e. Entrepreneurial training;
- f. Job readiness skills; and
- g. Adult education and literacy activities provided in combination with any other training services outlined above.

Training courses for which vouchers are granted should lead to self-sufficiency and the ability for the local area to meet performance standards.

Work readiness, literacy, basic skills and ESL may be an intensive service if delivered by intensive service staff; thereby no procurement is required. If providers deliver services paid with WIA funds, the services must be procured. If the services are classified as training, the provider and course of training must appear on the State approved list.

II. Initial Eligibility Determination [Ref. – Act 122(b); Regs. Sec. 663.515(a)(b)]

To receive an initial eligibility determination, potential providers must submit an application to the local board for the area in which the provider desires to provide training services, which describes each training program.

For those entities applying for eligibility under **Category Two** in Section I, if the training provider does not have the required performance data, it must provide the data that is available for the most recent two full operational years and must provide written justification for the missing data. The provider must also indicate how it will track and record data necessary for re-certification. The local WIB must also document reasons for waiving the performance data requirements.

A. Limitation on Initial Eligibility [Ref. – Regs. Sec. 663.530]

Initial eligibility will be granted for a 13-month period beginning June 1, 2000. Training providers, whose programs are certified during the 13-month initial eligibility period, will remain on the statewide list until June 30, 2001.

The application must contain the following verifiable program-specific performance information for the period of performance which is the most recently completed school year.

B. Program Information

1. Actual number and completion rates for individuals in the applicable proposed programs;
2. Actual number and percentage of individuals participating in applicable programs who obtained unsubsidized employment, including the percentage of individuals who obtained employment in an occupation related to the training; and
3. Earnings at placement.

C. Training Services Information

1. Actual numbers and percentage of individuals who completed applicable program and placed in unsubsidized employment;
2. Actual numbers and retention rates of individuals in unsubsidized employment who completed programs, six months after the first day of employment;
3. Wages received by individuals who completed, six months after the first day of employment; and if appropriate
4. Actual number and rates of certification, attainment of academic degrees or other measures of skills.

D. Program Costs

1. Tuition, fees and other related costs, which include, but are not limited to, books, tools, clothing and equipment.

2. Vouchers may be for tuition only or may include other program costs.
3. Other program costs may be paid directly in addition to the voucher.
4. All costs must be reported.

E. Review and Certification Process [Ref. – Regs. Sec. 663.515(d)]

Upon a determination by the local WIB that a complete application received by the local WIB does not meet the eligibility requirements set forth in the WIA and the Interim Final regulations, the WIB shall issue a denial notice within thirty (30) working days. A separate notice will be required for each training program being denied. The denial notice must clearly identify the program being denied and the specific reasons for the denial. The denial notice shall also advise the training provider of its right to appeal the local WIB's decision within 20 working days of the date of the denial as outlined in Section IX, Appeal Process.

A training provider may be denied certification for a training program for the following reasons:

1. The application is not complete or is not submitted within required time frames;
2. Performance data is not included with the application;
3. Performance data does not meet WIB standards;
4. If inaccurate information regarding a program is intentionally supplied;
5. Training programs do not support the demand occupations for the area.

The requirement for performance data may be waived by the local WIB upon showing of good cause. "Good cause" should include:

1. The training program is new and data on past performance is not available;
2. Only partial performance data is available (either type of data or number of years);
3. Collection of data will cause excessive costs and/or hardship for the training provider during the initial period - **NOTE:** Provider must develop methodologies to collect required data for Subsequent Eligibility; or
4. Other reasonable circumstances that may cause data to be unavailable.

Each local board must electronically submit its list of potential programs/providers and applications to the State Workforce Investment

Office by May 1, 2000. This initial closing date will allow the State Workforce Investment Office the necessary time to certify, compile and publish the statewide list. Within 20 working days of receipt of the application, the State Workforce Investment Office, will review, determine and certify each program and/or course of study initially eligible to furnish training services to WIA-eligible participants. However, programs offered at post-secondary educational institutions as previously defined in Section 122 (a)(Category One) of the Act and entities offering apprenticeship programs shall not be removed.

Training programs/providers will have tentative approval upon acceptance of the program application by the local WIB. If the program is found to be ineligible for the statewide list, the local WIB will cease to approve additional Individual Training Accounts for that program.

Training programs/providers will appear on the statewide list after the State Workforce Investment Office verifies the eligibility of the training provider.

The list shall be reopened quarterly.

III. Subsequent Eligibility Determination [Ref. – Act Sec. 122(c); Regs. Sec. 663.535]

In order to remain eligible to provide training services, service providers must submit and meet performance levels on an annual basis.

All providers of a program of training services are subject to subsequent eligibility procedures for each program for which recertification is sought.

These procedures are as follows:

A. Eligibility Status

In order to remain eligible to provide training services, service providers must submit and meet performance levels on an annual basis.

To maintain eligibility status, training providers must submit to the local WIB, at such time, in such manner and containing such information as the local WIB may request to adequately prepare the local WIB's performance information for each training program for which continued eligibility is being sought.

All training provider lists, including the local WIB's statement of eligibility determination, must be submitted to the State Workforce Investment Office no later than 60 days from receipt of the information by the WIBs.

In determining subsequent eligibility status, local WIBs must take into consideration the following elements:

[Ref. Act – 122(c)(4) – Regs. Sec. 663.535(f)(1)(2)]

1. Specific economic, geographic and demographic factors in the local area for which providers are seeking continued eligibility; and
2. Characteristics of the populations served, including demonstrated difficulties in serving these populations.

B. Performance Information

The following verifiable program-specific information must be completed and submitted for **ALL** students, as well as WIA students, **in each applicable program** in order to retain eligibility status. Minimum acceptable levels of performance will be developed after state performance standards are negotiated with the United States Department of Labor and the local performance standards are negotiated with the local WIB. [Ref. – Regs. Sec. 663.540]

1. All students including WIA students:

- Completion rates for all individuals participating in the applicable program;
- Percentage of all individuals participating in the program who obtained unsubsidized employment, which may also include information specifying the percentage of individuals who obtained unsubsidized employment in an occupation related to the program; and
- Wage at entered employment.

2. WIA Students only:

- Percentage who completed the applicable program and placed in unsubsidized employment;
- Retention rates in unsubsidized employment of participants who completed the applicable program six (6) months after the first date of employment;
- Wages received by participants six (6) months after the first day of employment; and
- Where appropriate, rates of licensure or certification, degree attainment of academic degrees or equivalents, or attainment of other measures of skills of the graduates of the application program.

C. Program Costs [Ref. – Regs. Sec. 663.540]

Tuition, fees and other related costs, which include, but are not limited to, books, tools, clothing and equipment.

D. Supplementary Information [Ref. – Regs. Sec. 663.540(d)]

Local WIBs may accept program-specific performance information, consistent with the requirements for eligibility under Title IV of Higher Education Act from a provider, if the information is substantially similar to the information otherwise required.

E. Insufficient Performance Information

The requirement for performance data may be waived by the local WIB upon showing of good cause. “Good cause” should include:

1. The training program is new and data on past performance is not available;
2. Only partial performance data is available (either type of data or number of years;
3. WIA-specific data for re-certification is not available because insufficient time has elapsed to have completers; or
4. Other reasonable circumstances that may cause data to be unavailable;

If the training provider does not have the required performance data, it must provide the data that is available for the most recent full two years and must provide written justification for the missing data. The provider must also indicate how it will track and record data necessary for recertification. The local WIB must also document reasons for waiving the performance data requirements.

Upon a determination by the local WIB that an application submitted by a training provider does not meet the eligibility requirements set forth in the Act and corresponding federal regulations, the WIB shall issue a denial notice within thirty (30) working days of receipt of a completed application. A separate notice will be required for each training program being denied. The denial notice must clearly identify the program being denied and the specific reasons for the denial. The denial notice shall also advise the training provider of its right to appeal the local WIB’s decision within thirty (30) working days of the date of the denial as outlined in Item IX, Appeal Process.

E. Submissions

Each local board must electronically submit its list of potential service providers and applications to the State workforce Investment Office no later than 60 days from receipt of the information by the WIBs. This initial closing date will allow the State workforce Investment Office the necessary time to certify, compile and publish the statewide list. Within 30 days, the State Workforce Investment Office, will review, determine and certify each program and/or course of study initially eligible to furnish training services to WIA-eligible participants for each course of study proposed. Training providers will be approved for training upon publication of the statewide list.

F. Publication of List

Training providers will have tentative local approval upon acceptance and approval of the program application by the local WIB. Training providers will appear on the statewide list after the State Workforce Investment Office verifies the eligibility. As new programs are submitted and approved throughout the year, the statewide list will be updated on an ongoing basis. If the program is found to be ineligible for the statewide list, the local WIB will cease to approve additional Individual Training Accounts for that program.

IV. Identification and Maintenance of Eligible Provider List [Ref. – Act Sec. 122 (e)(1)(2); Regs. Sec. 663.510; 663.550; 663.555]

A. Local Level

Through the **NetworkRI** One-Stop Delivery System, participants, employers, and other interested individuals will have direct access to a comprehensive list of career, education and training information.

B. State Level

The State Workforce Investment Office of Department of Labor and Training will be responsible for the development, operation and maintenance of the statewide Internet-based eligible training provider list and certified programs. The list will contain specific consumer information for each certified program.

Within 30 days of receipt of the lists, State Workforce Investment Office, will review and determine whether those programs have met required negotiated performance levels. If the performance levels have not been met, the State Workforce Investment Office, in consultation with the local WIB and State Workforce Investment Board may remove programs from the list.

Providers may also be removed under the following conditions:

1. If the State Workforce Investment Office, after consultation with the local WIB, determines that inaccurate information regarding a program is intentionally supplied to the State Workforce Investment Office, a termination of eligibility will occur. The termination will remain in effect for a minimum of two (2) years;
2. If the State Workforce Investment Office, or the local board working with the SWIO, determines that an eligible provider has substantially violated any requirements under the Act, the provider's eligibility to receive funds for the program in question will be terminated or commence corrective action as deemed appropriate;
3. Failure to reapply under subsequent eligibility procedures. If training providers do not reapply, they will be removed from the list; or
4. If a provider fails to meet or exceed established performance levels, the provider's eligibility to receive funds will be suspended by the State Workforce Investment Office, after consultation with the local WIB, for a period of not less than one (1) year.

V. Consumer Report System [Ref. – Regs. Sec. 663.570]

A. Report System

The consumer report system will contain information necessary for adult and dislocated workers to choose a program of training services. Such factors include, but are not limited to overall performance, performance for significant customer groups which includes wage replacement rates for dislocated workers, performance of specific provider sites, current information on employment and wage trends and projections and duration of training programs.

B. Report Card

The consumer report card data base will have direct access or links that easily identify a variety of providers by region, types of training, provider credentials, costs, class schedules, success rates and feedback from previous customers, students and clients. These profiles will detail information about the character of the institution and provide a wide variety of career education and training options.

VI. Compliance Requirements [Ref. – Act Sec. 122(f)(1); Regs. Sec. 663.535]

A. Accuracy of Information

Local WIBs are responsible for determining subsequent eligibility of its training programs/providers. Training providers should deliver results and

provide factual information in order to retain eligible training provider status.

After consultation with the local WIB, if it is determined that a certified training provider or individual(s) supplying information on behalf of the provider intentionally supplies inaccurate information, the provider's eligibility to receive funds shall be terminated for a period of not less than two (2) years.

B. Non-Compliance [Ref. – Act Sec. 122(f)(2); Regs. Sec. 663.565]

Each training provider determined to be in violation of any of the requirements of the Act, may, in consultation with the local WIB, have its eligibility to receive funds terminated until a corrective action plan is received and approved by the Department of Labor and Training.

Corrective Action Plan

The training provider in consultation with local WIB staff must develop a corrective action plan (CAP). The local WIB will submit the CAP to the State Workforce Investment Office as part of the reapplication process. The CAP should contain the following:

A. Circumstances

The description should indicate the specific circumstances; i.e., violations of the Act, inaccurate information, performance, etc.

B. Corrective Action Steps

Specific steps that have been taken to correct the situation should be described. This includes procedural changes that corrected the deficiency, technical assistance and/or meetings with appropriate local and/or state officials.

Local WIB staff must submit, as part of the CAP, an outline describing how designated local WIB staff will document implementation of the training provider's CAP.

VIII. Repayment [Ref. – Act Sec. 122(f)(3); Regs. Sec. 663.565(a)(3)]

Providers determined to have intentionally supplied inaccurate information or to have subsequently violated any provision of Title I of WIA or the supporting federal regulations may be removed from the statewide eligible provider list. A provider whose eligibility is terminated under these conditions shall be liable to

repay all adult and dislocated worker training funds received during the period of non-compliance from non-Federal funds.

IX. Appeal Process [Ref. – Act Sec. 122(g); Regs. Sec. 663.565(b)(4) and Sec.667.640 (b)(1)(2)(3)]

A. Denial of Training Programs

1. Local Level Review 667.640 (b)(1)(2)(3)

Training providers will have 30 days from the mailing of the denial notice of a training program in which to file an appeal to the local WIB. The request for appeal must identify the program, which was denied and the reasoning for the appeal. The local WIB must issue a decision within 30 days after the appeal was filed. If the training provider is not satisfied with the local WIB decision, an appeal may be filed with the WIA Liaison at the Department of Labor and Training.

2. State Level Review

The training provider will have 30 days from the date of the local WIB decision to request a **review** by the WIA Liaison. The request must be submitted, in writing, within 30 days of receipt of the local WIBs decision and must include a copy of the local WIBs decision. Within 30 days of receipt of the request for review, a decision will be issued to the training provider.

B. Denial of Eligibility, Suspension and/or Termination

Following issuance of a denial of eligibility, determination of suspension or termination of eligibility, by the WIA Liaison, the training provider will have 30 days in which to submit an **appeal** to the State Office of Legal Services and Adjudication. Within 60 days of the receipt of the appeal, the training provider will be notified of the date, time and place where a due process hearing will be conducted and a decision will be issued. There shall be no appeal to the decision and no right to further access. All appeals must be forwarded, in writing, to the following address:

Sandra Murphy-Crowe, Esq.
Department of Administration
Office of Legal Services & Adjudication
1 Capitol Hill
Providence, Rhode Island 02908

X. **Exemptions to the Certification Process** [Ref. – Act Sec. 122(h); Regs. Sec. 663.595]

Providers of OJT and/or customized training **ARE NOT SUBJECT** to the requirements outlined in Section II above, which requires the submission and certification of an application.

The designated One-Stop in each local area will collect performance information and determine whether the providers meet the required performance criteria. Each one-stop shall disseminate information identifying exempt training providers.

A. **On-the-Job Training (OJT)**

1. OJT is provided by an employer in the public, private non-profit or public sector. A contract may be developed between the employer and the local program that provides core and intensive services for WIA participants for reimbursement up to a maximum of 50% of the participants' wages.
2. The local program shall not contract with employers who have previously demonstrated a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits and working conditions equivalent to those provided to regular employees who have worked the same length of time and performing the same type of work.
3. OJT contracts shall be limited to the period of time required for the participants to become proficient in the occupations for which training is being provided. In determining the length of the contract, consideration should be given to the skill requirements of the occupation, academic and occupational skill level of the participants, prior work experience and the participant's individual employment plan.

B. **Customized Training**

1. Customized training is designed to meet special requirements of the employer, conducted with a commitment by the employer to employ or continue to employ individuals upon successful completion of training. The employer pays 50% of the cost of training.
2. Customized training may be provided under the following conditions:

- a. Employees are not earning self-sufficient wages;
- b. The conditions outlined in 1. above; and
- c. The training relates to OJT or other appropriate purposes identified by the local WIB.
- d. Services that may be provided through intensive services, i.e. work readiness, ESL, basic skills, literacy.

XI. Selection of Eligible Youth Activities Providers [Ref. – Act, Sec. 117(h), 123; Regs. Preamble, Sec. 664.510]

Providers of youth activities are **not subject** to the Training Provider Certification process and are **not eligible** to provide training through the receipt of Individual Training Accounts. Local WIBs must identify eligible providers of youth activities based on recommendations of the local Youth Council and award grants or contracts in accordance on a competitive basis.

In accordance with Section 129(b)(2)(A) of the Act and Section 665.200(b)(4) of the Interim Final Regulations, the State Workforce Investment Office will compile and disseminate a listing of eligible youth providers.

Each local WIB will be required to electronically submit its listing of eligible youth providers to the State Workforce Investment Office for incorporation into the combined statewide listing.